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1617

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sridhar Krishna Rabindran, et al.
Serial No.: 10/086,169 **Group Art Unit:** 1617
Filed: February 28, 2002 **Examiner:** Shaojia A. Jiamg
For: REVERSAL OF MULTIDRUG RESISTANCE IN HUMAN
COLON CARCINOMA CELLS

Confirmation No.: 3409
Customer Number: 25291

April 28, 2003

Commissioner for Patents
Washington, D.C. 20231

Beet
5-3-03

Sir:

RESPONSE

This is a response to an office letter mailed April 9, 2003, which sets a shortened statutory period to expire 30 days from the date of the letter. The letter is a restriction requirement. Please consider the following remarks.

REMARKS

The present invention relates to fumitremorgin A, B and C and to certain diketopiperazines which are useful to resensitize multidrug resistant (MDR) cancer cells to the cytotoxic effects of chemotherapeutic drugs.

The Examiner has required a restriction under U.S.C. 121 to one of the following groups:

CERTIFICATE OF MAILING 37 CFR §1.10

I hereby certify that this paper and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date written below in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EU673382457US addressed to the Commissioner for Patents, Washington, DC 20231.

Date

April 29, 2003David B. Pham

- I. Claims 13-28 and 57-59 drawn to methods of distinguishing P-gp/MRP multiple drug resistance from BCRP or other non-P-gp/non MRP multiple drug resistance, and a method of determining the presence and magnitude of cancer cell BCRP or other non-P-gp/non MRP multiple drug resistance in cancer cells exhibiting such resistance, comprising administration of an effect amount of the specified agent herein, classified in class 514, subclass 410, 411 and 415 for example.
- II. Claims 34-38 and 61 drawn to methods of treatment of BCRP or other non-P-gp/non MRP multiple drug resistance comprising administration of an effect amount of the specified agent herein, classified in class 514, subclass 410, 411, and 415 for example.

Applicants respectfully traverse the restriction requirement. It is unclear to the applicants whether the preliminary amendment filed with the application was considered prior to issuing the restriction requirement because claim 63 has not been included in the list of pending claims. Applicants respectfully request that the Examiner consider the preliminary amendment prior to the examination of the invention.

Applicants, in order to further prosecution of the case, in accordance with 37 C.F.R. 1.143 provisionally, elect restriction group I (claims 13-28 and 57-59) for prosecution. Applicants respectfully request that the Examiner reconsider the restriction requirement.

Applicants will rely on rights provided under 35 U.S.C. 121 to prosecute the non-elected aspects of the invention in the divisional application in the event the restriction is warranted.

The applicant has complied with the restriction requirement and requests examination on the merits. Favorable treatment of the application is earnestly solicited.



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